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November 7, 2005

**VIA FEDEX**

Michael P. McCann  
Supervising Engineer  
San Diego Regional Water Quality Control Board  
9174 Sky Park Court, Suite 100  
San Diego, California 92123

Re: TENTATIVE CLEANUP AND ABATEMENT ORDER NO. R9-2005-0126

Dear Mr. McCann:

This letter provides the comments of BAE Systems San Diego Ship Repair, Inc. ("BAE Systems"), on Chairman Minan's Order of Proceedings issued on October 18, 2005 (the "Order").

BAE Systems endorses the contemporaneous comments filed by National Steel & Shipbuilding Company ("NASSCO") regarding the procedural and due process concerns raised by the Order. More specifically, BAE Systems strongly concurs that the complexity of the scientific and technical issues involved in this matter, and the very significant financial implications for the affected dischargers, mandate the adoption of procedures that provide the fullest possible protection of the statutory and constitutional rights of the dischargers. BAE Systems also agrees that it is premature even to attempt to establish specific time limits for discovery, submittal of written materials, length of the public hearing, etc. until after the Cleanup Team has published a complete Technical Report, and that at least one and likely more than one additional pre-hearing conference will likely be required to address such procedural issues. BAE Systems agrees with NASSCO that the proposed order of proceedings set forth in NASSCO's comments is appropriate given the complexity of these proceedings and the need to preserve the due process rights of the parties, and respectfully requests that it be adopted in lieu of the proceedings set forth in the Order.

Respectfully submitted,

McKenna Long & Aldridge LLP

By: 

Christian Volz

Attorneys for BAE Systems San Diego  
Ship Repair, Inc.

cc: Service List (attached)  
SF:27195980.1

**PROOF OF SERVICE BY MAIL**

**TENTATIVE CLEANUP AND ABATEMENT ORDER NO. R9-2005-0126  
ISSUED BY SAN DIEGO BAY REGIONAL WATER QUALITY CONTROL BOARD**

I am a citizen of the United States and employed in the County of San Francisco, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 101 California Street, 41<sup>st</sup> Floor, San Francisco, California 94111. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On November 7, 2005 I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

***Letter to Michael P. McCann Dated November 8, 2005  
re Order of Proceedings of October 18, 2005 concerning  
CAO No. R9-2005-0126***

in a sealed envelope, postage fully paid, addressed as follows:

Mr. Michael Chee  
National Steel and Shipbuilding Co.  
Post Office Box 85278  
San Diego, CA 92186-5278

Mr. Sandor Halvax  
BAE Systems San Diego Ship Repair Inc.  
Post Office Box 13308  
San Diego, CA 92170-3308

Mr. David Merk  
Director of Environmental Services  
Port of San Diego  
Post Office Box 120488  
San Diego, CA 92112

Mr. Brian Gordon  
Department of the Navy  
Environmental Department N45  
Commander Navy Region Southwest  
33000 Nixie Way, Building 50, Suite 326  
San Diego, CA 92147-5110

Mr. Scott Tulloch  
City of San Diego  
Metropolitan Wastewater Department  
9192 Topaz Way  
San Diego, CA 92123

Mr. Vincent Gonzales  
SDG&E Sempra Energy  
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Los Angeles, CA 90013-1011

Mr. H. Allen Fernstrom  
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2300 West Commodore Way  
Seattle, WA 98199

Mr. Christopher J. McNevin  
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1 Mr. Roy Thun  
2 BP West Coast Products LLC  
3 6 Centerpointe Drive  
4 La Palma, CA 90623-1066

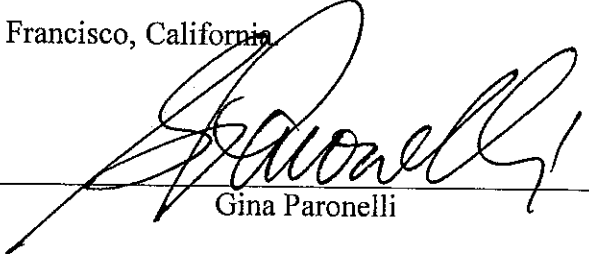
Ms. Laura Hunter  
San Diego Bay Council  
c/o Environmental Health Coalition  
1717 Kettner Blvd., No. 100  
San Diego, CA 92101

5 Mr. David Barker  
6 Shipyard Sediment Site Cleanup Team  
7 San Diego Regional Water Quality  
8 Control Board  
9 9174 Sky Park Court, Suite 100  
10 San Diego, CA 92123-4340

11 Following ordinary business practices, the envelope was sealed and placed for collection  
12 and mailing on this date, and would, in the ordinary course of business, be deposited with the  
13 United States Postal Service on this date.

14 I declare under penalty of perjury under the laws of the State of California that the above  
15 is true and correct.

16 Executed on **November 7, 2005** at San Francisco, California

17   
18 Gina Paronelli

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